

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP  
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Attorney for CITIFINANCIAL, INC., ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION

IN RE:	§ CASE NO. 08-70500-HDH-13
	§
BARBARA GALE ALFORD,	§
Debtor	§ CHAPTER 13
	§
CITIFINANCIAL, INC., ITS	§
ASSIGNS AND/OR SUCCESSORS IN	§
INTEREST,	§
Movant	§ FINAL HEARING DATE: 02/17/2010
	§
v.	§ TIME: 11:00 AM
	§
BARBARA GALE ALFORD;	§
WALTER O'CHESKEY, Trustee	§
Respondents	§ JUDGE HARLIN D. HALE

**MOTION OF CITIFINANCIAL, INC., ITS ASSIGNS AND/OR SUCCESSORS IN  
INTEREST  
FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR(S) PURSUANT TO 11  
U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO  
§ 362(e)**

**NOTICE - RESPONSE REQUIRED**

**PURSUANT TO LOCAL BANKRUPTCY RULE 4001 (b), A RESPONSE IS  
REQUIRED. THE TRUSTEE, IF ONE HAS BEEN APPOINTED, OR THE  
DEBTOR SHALL FILE A RESPONSE TO ANY MOTION FOR RELIEF  
FROM THE AUTOMATIC STAY WITHIN FOURTEEN (14) DAYS FROM  
THE SERVICE OF THE MOTION. THE DEBTOR'S RESPONSE SHALL  
INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO  
HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE  
STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A  
RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S  
MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE  
DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE**

**ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.**

**File a written response with the court at:**

**CLERK, U.S. BANKRUPTCY COURT  
EARLE CABELL U.S. COURTHOUSE, 1100 COMMERCE STREET, Room  
1254,  
DALLAS, TX 75242-1003**

**UNDER BANKRUPTCY RULE 9006 (e) SERVICE BY MAIL IS COMPLETE UPON MAILING; UNDER BANKRUPTCY RULE 9006 (f), THREE (3) DAYS ARE ADDED TO THE PERIOD FOR FILING A RESPONSE WHEN NOTICE OF THE PERIOD IS SERVED BY MAIL.**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Movant, CITIFINANCIAL, INC., ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about November 20, 2008, Debtor (hereinafter "Debtor") filed a petition for an order of relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C.
3. At the time of filing the Chapter 13 petition, Movant held a Texas Home Equity Note executed on May 4, 2007, by BARBARA GALE ALFORD in the original amount of NINETY-NINE THOUSAND ONE HUNDRED EIGHTY DOLLARS AND NINETY-FOUR CENTS (\$99,180.94) with interest thereon at the rate of 6.000% per annum. A true and correct copy of the Texas Home Equity Note is attached hereto as Exhibit "A".
4. The indebtedness is secured by a Texas Home Equity Security Instrument dated

May 4, 2007 and executed by BARBARA GALE ALFORD on real estate with all improvements known as:

LOT FIFTEEN A (15-A), BLOCK TWENTY-ONE (21), OF FOUNTAIN PARK, SECTION 1-B, A REPLAT OF LOTS 14-15, BLOCK 21, FOUNTAIN PARK SECTION 1-B, AN ADDITION TO THE CITY OF WICHITA FALLS, WICHITA COUNTY, TEXAS, ACCORDING TO THE PLAT OF RECORDED IN VOLUME 20, PAGE 36, WICHITA COUNTY, TEXAS.

A true and correct copy of the Texas Home Equity Security Instrument is attached hereto as Exhibit "B".

5. Debtor has failed to maintain current the post-petition payments due under the Texas Home Equity Note and is presently in arrears for 5 payments through and including the December 20, 2009 payment.

6. The outstanding indebtedness to Movant is \$98,766.16 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Texas Home Equity Note and Texas Home Equity Security Instrument.

7. Further cause may exist to terminate the automatic stay if the Debtor fails to provide proof of adequate insurance and payment of applicable taxes by Debtor as required by the Texas Home Equity Note and Texas Home Equity Security Instrument. Movant hereby demands proof of insurance and payment of applicable taxes by Debtor. Movant reserves the right to further assert that Debtor has failed to pay taxes or insurance based on the response of Debtor.

8. In accordance with the terms of the Texas Home Equity Note and Texas Home Equity Security Instrument, Movant would allege that it is entitled to reasonable post-petition attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

9. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(a).

10. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Texas Home Equity Note and Texas Home Equity Security Instrument.

11. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

12. The provision of Rule 4001 (a) (3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE, Movant prays that this Court enter an order, after notice and hearing, terminating the automatic stay as to Movant; alternatively, Movant be made whole by having all post-petition payments brought current. Movant further prays that the Court waive the provision of Rule 4001 (a) (3) and that CITIFINANCIAL, INC., ITS ASSIGNS AND/OR SUCCESSORS IN INTEREST be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable post-petition attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

BY: /s/ SHAWN CARTER

1/5/2010

SHAWN CARTER

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ADDISON, TX 75001

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ATTORNEY FOR MOVANT

**CERTIFICATE OF CONFERENCE**

BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, represents the creditor on the foregoing Motion. The undersigned, an attorney, employed by BARRETT DAFFIN FRAPPIER TURNER & ENGEL, LLP, states that prior to filing the foregoing motion he/she did the following:

Made a good faith effort to negotiate a settlement of the dispute with Debtor's Counsel.

NOTES: Jeff Fleming left a message for debtor's counsel.

Date of Conference Call: December 07, 2009 11:09 a.m.

BY: /s/ SHAWN CARTER 1/5/2010  
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ATTORNEY FOR MOVANT

**CERTIFICATE OF SERVICE**

I hereby certify that on January 05, 2010, a true and correct copy of the foregoing Motion for Relief from Stay was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER  
TURNER & ENGEL, LLP

/s/ SHAWN CARTER 1/5/2010

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ATTORNEY FOR MOVANT

**DEBTOR:**

BARBARA GALE ALFORD  
2700 MCNEIL  
WICHITA FALLS, TX 76309

**TRUSTEE:**

WALTER O'CHESKEY  
6308 IOLA AVENUE  
LUBBOCK, TX 79424

**US TRUSTEE:**

1100 COMMERCE STREET, ROOM 976  
EARLE CABELL FEDERAL BLDG  
DALLAS, TX 75242

**DEBTOR'S ATTORNEY:**

MONTE J WHITE  
1106 BROOK AVENUE  
WICHITA FALLS, TX 76301

**PARTIES IN INTEREST:**

CITY OF WF, WFISD, WICHITA COUNTY  
C/O PERDUE BRANDON FIELDER COLLINS & MOT  
P O BOX 8188  
WICHITA FALLS, TX 76307

**PARTIES REQUESTING NOTICE:**

RAFUSE LAW FIRM, P.C.  
710 LAMAR STREET SUITE 440  
CHKCO FINANCIAL  
WICHITA FALLS, TX 76301

GE MONEY BANK  
C/O RECOVERY MANAGEMENT SYSTEMS CORP.  
25 SE 2ND AVENUE, SUITE 1120  
ATTN: RAMESH SINGH  
MIAMI, FL 33131-1605